

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Number: **201947016**
Release Date: 11/22/2019

Employer Identification Number:

Date: August 26, 2019

Contact person - ID number:

Contact telephone number:

LEGEND:
X = corporation
y = number

UIL:
4945.04-04

Dear _____ :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code Section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

Our determination

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code Section 117(b)).

Description of your request

You will operate an employer-related scholarship program for children of employees of X and its affiliated companies. Your focus with this program will be on awarding qualified scholarships to be used for study at educational organizations described in Section 170(b)(1)(A)(ii) of the Code.

You do not intend to award educational loans or involve any loan institutions in your program.

The program will be primarily publicized through direct communication to X employees, such as emails, direct mailing, and notifications on the intra-company website.

A student will be eligible to apply for a scholarship if they are a:

- Dependent child or grandchild, age 26 and under, of part-time or full-time employees of X who have a minimum of one year of employment with X as of the application deadline.
- Graduating high school senior who will attend an accredited post-secondary institution of higher learning, including accredited two-year or vocational-technical programs. Or, alternatively, the student is a current post-secondary undergraduate attending, or with plans to attend an accredited post-secondary institution of higher learning, including accredited two-year or vocational-technical programs

There will be no limitations or restrictions in the selection procedures based upon race, religion, national or ethnic origin, or other illegally discriminatory criteria.

You anticipate that scholarships will be awarded to applicants based on high school academic performance; demonstrated leadership; participation in school and community activities; work experience; and possibly financial need. Additionally, applicants will be asked to write a short essay on their academic or professional aspirations and how the scholarship will help them achieve those goals.

In awarding the scholarship, you will not take into consideration the applicant's potential field or study, nor will you take into consideration the employment title or position of the applicant's family member in X or any affiliate. All recipients are free to use the scholarship to pursue any course of study and will not be limited to courses of study that are of particular benefit to X. The terms of the scholarship will not include any commitment, understanding, or obligation suggesting that the recipient's studies are undertaken for the benefit of you or X.

You shall determine the number of scholarships awarded based on the amount of available funds and on the quality of applicants. Initially, you expect to award approximately y scholarships per year. The number of scholarships to be awarded each year may be reduced in the event the selection committee does not receive sufficient qualified applicants.

In all cases, you will meet the requirements of Section 4.03 of Revenue Procedure 76-47 and will adjust the number of scholarships to meet these requirements.

The scholarship amounts will be determined based upon the needs and qualifications of the applicants.

After a scholarship is awarded, the recipient will have to show proof of enrollment in an accredited educational institution before the scholarship amount is paid. It is anticipated that this requirement will generally be met by entering into an agreement with the recipient's educational organization such that the scholarship funds will be paid to the

college or university and that the funds may only subsequently be used for qualified education expenses.

You have not yet determined if the scholarship awards will be renewable, or only single year grants. If you decide to make the scholarship renewable, in order to qualify for a renewal a recipient will have to submit a report showing that they remain in good standing with their educational organization and show proof of enrollment for the next academic term. You will not renew a scholarship if you have information that the original scholarship was used for any other purpose than qualified educational expenses; that the recipient engaged in any misconduct; or the recipient fails to maintain a satisfactory academic record.

In all cases, once a scholarship is awarded, it may not be terminated, and any renewals may not be denied, because the recipient's parent terminates employment with X, regardless of the reason for the termination of employment.

In all cases you will use an independent administrator to both select the scholarship recipients and to administer your scholarship program. The administrator will provide an independent selection committee with considerable experience of selecting scholarship recipients. The members of the selection committee will have no other connection to you, X, or any of its affiliates.

Relatives of the selection committee will not be eligible for awards under your scholarship program. Additionally, no relatives of your officers, directors, or substantial contributors will be eligible for the scholarship program. In all cases, no grants will be awarded to individuals who are disqualified with respect to you.

You represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You represent that you will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants described above.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code Section 117(a).
- The grant is to be used for study at an educational organization described in Code Section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code Section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code Section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

Other conditions that apply to this determination:

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with Sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of Section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements